

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LIGHTING & SUPPLIES, INC.,

Plaintiff,

v.

SUNLITE USA CORPORATION, and
HALSTON MIKAIL,

Defendants.

CIVIL ACTION

NO.: 1:14-cv-04344(JBW)(JO)

DECLARATION OF JOEL GROSS

Joel Gross, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the Sales Manager for Plaintiff Lighting & Supplies, Inc.
2. On Tuesday, May 19, 2015, I was in Wisconsin at the corporate offices of Menards.
3. Menards is a large chain of home-improvement stores located primarily in the Midwest of the United States. I understand that Menards has approximately 285 stores in the United States and that it is the third largest home-improvement chain in the United States, behind Home Depot and Lowe's.
4. Menards purchases private label brand products to sell to customers out of their stores.
5. At Menards' corporate facility in Wisconsin, vendors and suppliers display their products for Menards' buyers to evaluate and potentially purchase.
6. I was at Menards' corporate facility displaying our SUNLITE[®] products to Menards' buyers, when I was shocked to see Defendants Sunlite USA Corporation and Halston

Mikail's products containing a counterfeit "Sunlite" mark displayed for Menards' buyers to evaluate and potentially purchase.

7. It is clear that the Defendants' counterfeit "Sunlite" products were recently displayed by the Defendants, as the merchandise and products that are displayed by vendors at Menards' corporate offices are products that are currently offered and available to purchase for Menards' chain stores.

8. I saw that there were, at the very least, ten products displayed that contained the counterfeit "Sunlite" mark. The counterfeit "Sunlite" products were displayed along with products labeled "Spotlite", which I understand is a brand name that the Defendants are also using.


9. Therefore, it is clear that Sunlite USA Corporation and Halston Mikail are, to-date, actively continuing to sell products using the counterfeit "Sunlite" mark.

10. Every day that Sunlite USA Corporation and Halston Mikail's counterfeit "Sunlite" products are displayed for Menards' buyers to view and purchase, it creates confusion in the marketplace and undermines Plaintiff's ability to control its reputation and threatens the goodwill Plaintiff has established in the SUNLITE[®] mark.

11. Attached are photographs that I took on Tuesday, May 19, 2015 which show the Defendants' counterfeit "Sunlite" products, including (i) a 20W "Candle Filament" LED blub; (ii) a 6W "Candle Flame Tip Clear" LED bulb; (iii) a 60W "Candle Torpedo Clear" LED bulb; and (iv) a 50W "Candle Torpedo LED bulb.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Brooklyn, New York, on this 20 day of May, 2015.



JOEL GROSS



